

Senate Bill No. 1850

CHAPTER 259

An act to amend Sections 127931, 128125, 128135, 128198, 128200, 128260, 128385, 128485, 128730, 128737, 128765, 128770, and 128775 of, to amend the heading of Chapter 4 (commencing with Section 128200) of, to amend the heading of Article 1 (commencing with Section 128200) of Chapter 4 of, Part 3 of Division 107 of the Health and Safety Code, relating to health care.

[Approved by Governor September 14, 2006. Filed with
Secretary of State September 14, 2006.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1850, Committee on Health. Health care: training: reporting.

Existing law, the Song-Brown Family Physician Training Act, provides for specified training programs for certain health care workers, including family physicians, nurses, nurse practitioners, and physician's assistants.

This bill would change the name of this act to the Song-Brown Health Care Workforce Training Act.

Existing law, the Health Data and Advisory Council Consolidation Act (HDACCA), requires certain types of health care facilities to report specified information to the Office of Statewide Health Planning and Development. Existing law requires each hospital and freestanding ambulatory surgery clinic to file with the office an ambulatory surgery data record, containing specified information, for each patient encounter during which at least one ambulatory surgery procedure is performed.

This bill would expressly provide that the types of hospitals that are subject to this requirement are general acute care hospitals.

Existing law requires the office to collect, among other things, Hospital Discharge Abstract Data Records from any organization that operates, conducts, owns, or maintains a health facility, and to make that data available to the State Department of Health Services under specified conditions.

This bill would require the office to collect and make available to the State Department of Health Services, in addition to those reports, hospital Emergency Care Data Records and Ambulatory Surgery Data Records.

Existing law requires that all reports filed under the HDACCA be posted on the office's Internet Web site, and be produced and made available for inspection upon the demand of any person, with the exception of hospital discharge abstract data if the office determines that an individual patient's rights of confidentiality would be violated.

This bill would change this exception to apply to discharge and encounter data.

Existing law requires the reports filed under the HDACCA to include certain elements, and to be disseminated as widely as practical to interested parties.

This bill would apply these requirements only to risk-adjusted outcome reports published pursuant to specified provisions of law.

Existing law requires the office, for the purpose of public disclosure, to compile and publish summaries of the data that is required to be disclosed under the HDACCA.

This bill would instead require the compilation and publication of summaries of individual facility and aggregate data that do not contain patient-specific information required to be disclosed under the HDACCA, and would require that the summaries be posted on the office's Internet Web site.

Existing law requires the office to continue the publication of aggregate industry and individual health facility cost and operational data published by the California Health Facilities Commission under specified provisions of law, and to submit the publication to the Legislature no later than March 1 of each year.

This bill would eliminate that requirement.

Existing law provides that any health facility that does not file with the office any report required by the HDACCA is liable for a civil penalty, except as specified.

This bill would also apply this provision, in addition, to a freestanding ambulatory surgery clinic.

The people of the State of California do enact as follows:

SECTION 1. Section 127931 of the Health and Safety Code is amended to read:

127931. (a) The office shall distribute student applications to participate in the program to postsecondary institutions eligible to participate in the state and federal financial aid programs and that have a program of professional preparation that has been approved by the Medical Board of California or the Dental Board of California. Each eligible institution shall receive at least one application.

(b) Each participating institution shall sign an institutional agreement with the office, certifying its intent to administer the program according to all applicable published rules, regulations, and guidelines, and shall make special efforts to notify students regarding the availability of the program, particularly to economically disadvantaged students.

(c) To the extent feasible, the office and each participating institution shall coordinate this program with other existing programs designed to recruit or encourage students to enter the medical and dental professions. These programs shall include, but not be limited to, the following:

- (1) The Song-Brown Health Care Workforce Training Act.
- (2) The Health Education and Academic Loan Act.

(3) The National Health Service Corp.

SEC. 2. Section 128125 of the Health and Safety Code is amended to read:

128125. The Legislature finds that there is a need to improve the effectiveness of health care delivery systems. One way of accomplishing that objective is to utilize health care personnel in new roles and to reallocate health tasks to better meet the health needs of the citizenry.

The Legislature finds that experimentation with new kinds and combinations of health care delivery systems is desirable, and that, for purposes of this experimentation, a select number of publicly evaluated health workforce pilot projects should be exempt from the healing arts practices acts. The Legislature also finds that large sums of public and private funds are being spent to finance health workforce innovation projects, and that the activities of some of these projects exceed the limitations of state law. These projects may jeopardize the public safety and the careers of persons who are trained in them. It is the intent of the Legislature to establish the accountability of health workforce innovation projects to the requirements of the public health, safety, and welfare, and the career viability of persons trained in these programs. Further, it is the intent of this legislation that existing healing arts licensure laws incorporate innovations developed in approved projects that are likely to improve the effectiveness of health care delivery systems.

SEC. 3. Section 128135 of the Health and Safety Code is amended to read:

128135. The office may designate experimental health workforce projects as approved projects where the projects are sponsored by community hospitals or clinics, nonprofit educational institutions, or government agencies engaged in health or education activities. Nothing in this section shall preclude approved projects from utilizing the offices of physicians, dentists, pharmacists, and other clinical settings as training sites.

SEC. 4. Section 128198 of the Health and Safety Code is amended to read:

128198. (a) (1) There is hereby established in the Office of Statewide Health Planning and Development the California Pharmacist Scholarship and Loan Repayment Program.

(2) The program shall provide scholarships to pay for the educational expenses of pharmacy school students and repay qualifying educational loans of pharmacists who agree to participate in designated medically underserved areas as provided in this section.

(b) The Office of Statewide Health Planning and Development shall administer the California Pharmacist Scholarship and Loan Repayment Program utilizing the same general guidelines applicable to the federal National Health Service Corps Scholarship Program established pursuant to Section 254 *l* of Title 42 of the United States Code and the National Health Service Corps Loan Repayment Program established pursuant to Section 254 *l*-1 of Title 42 of the United States Code, except as follows:

(1) A pharmacist or pharmacy school student shall be eligible to participate in the program if he or she agrees to provide pharmacy services in a practice site located in areas of the state where unmet priority needs for primary care family physicians exist as determined by the Health Workforce Policy Commission.

(2) No matching funds shall be required from any entity in the practice site area.

(c) This section shall be implemented only to the extent that sufficient moneys are available in the California Pharmacist Scholarship and Loan Repayment Program Fund to administer the program.

SEC. 5. The heading of Chapter 4 (commencing with Section 128200) of Part 3 of Division 107 of the Health and Safety Code, as added by Section 360 of Chapter 1023 of the Statutes of 1996, is amended to read:

CHAPTER 4. HEALTH CARE WORKFORCE TRAINING PROGRAMS

SEC. 6. The heading of Article 1 (commencing with Section 128200) of Chapter 4 of Part 3 of Division 107 of the Health and Safety Code, as added by Section 360 of Chapter 1023 of the Statutes of 1996, is amended to read:

Article 1. Song-Brown Health Care Workforce Training Act

SEC. 7. Section 128200 of the Health and Safety Code is amended to read:

128200. (a) This article shall be known and may be cited as the Song-Brown Health Care Workforce Training Act.

(b) The Legislature hereby finds and declares that physicians engaged in family practice are in very short supply in California. The current emphasis placed on specialization in medical education has resulted in a shortage of physicians trained to provide comprehensive primary health care to families. The Legislature hereby declares that it regards the furtherance of a greater supply of competent family physicians to be a public purpose of great importance and further declares the establishment of the program pursuant to this article to be a desirable, necessary and economical method of increasing the number of family physicians to provide needed medical services to the people of California. The Legislature further declares that it is to the benefit of the state to assist in increasing the number of competent family physicians graduated by colleges and universities of this state to provide primary health care services to families within the state.

The Legislature finds that the shortage of family physicians can be improved by the placing of a higher priority by public and private medical schools, hospitals, and other health care delivery systems in this state, on the recruitment and improved training of medical students and residents to meet the need for family physicians. To help accomplish this goal, each

medical school in California is encouraged to organize a strong family practice program or department. It is the intent of the Legislature that the programs or departments be headed by a physician who possesses specialty certification in the field of family practice, and has broad clinical experience in the field of family practice.

The Legislature further finds that encouraging the training of primary care physician's assistants and primary care nurse practitioners will assist in making primary health care services more accessible to the citizenry, and will, in conjunction with the training of family physicians, lead to an improved health care delivery system in California.

Community hospitals in general and rural community hospitals in particular, as well as other health care delivery systems, are encouraged to develop family practice residencies in affiliation or association with accredited medical schools, to help meet the need for family physicians in geographical areas of the state with recognized family primary health care needs. Utilization of expanded resources beyond university-based teaching hospitals should be emphasized, including facilities in rural areas wherever possible.

The Legislature also finds and declares that nurses are in very short supply in California. The Legislature hereby declares that it regards the furtherance of a greater supply of nurses to be a public purpose of great importance and further declares the expansion of the program pursuant to this article to include nurses to be a desirable, necessary, and economical method of increasing the number of nurses to provide needed nursing services to the people of California.

It is the intent of the Legislature to provide for a program designed primarily to increase the number of students and residents receiving quality education and training in the specialty of family practice and as primary care physician's assistants, primary care nurse practitioners, and registered nurses and to maximize the delivery of primary care family physician services to specific areas of California where there is a recognized unmet priority need. This program is intended to be implemented through contracts with accredited medical schools, programs that train primary care physician's assistants, programs that train primary care nurse practitioners, programs that train registered nurses, hospitals, and other health care delivery systems based on per-student or per-resident capitation formulas. It is further intended by the Legislature that the programs will be professionally and administratively accountable so that the maximum cost-effectiveness will be achieved in meeting the professional training standards and criteria set forth in this article and Article 2 (commencing with Section 128250).

SEC. 8. Section 128260 of the Health and Safety Code is amended to read:

128260. As used in this article, unless the context otherwise requires, the following definitions shall apply:

(a) "Commission" means the California Healthcare Workforce Policy Commission.

(b) “Director” means the Director of Statewide Health Planning and Development.

(c) “Medically underserved designated shortage area” means any of the following:

(1) An area designated by the commission as a critical health workforce shortage area.

(2) A medically underserved area, as designated by the United States Department of Health and Human Services.

(3) A critical workforce shortage area, as defined by the United States Department of Health and Human Services.

(d) “Primary care physician” means a physician who has the responsibility for providing initial and primary care to patients, for maintaining the continuity of patient care, and for initiating referral for care by other specialists. A primary care physician shall be a board-certified or board-eligible general internist, general pediatrician, general obstetrician-gynecologist, or family physician.

SEC. 9. Section 128385 of the Health and Safety Code is amended to read:

128385. (a) There is hereby created the Registered Nurse Education Program within the Health Professions Education Foundation. Persons participating in this program shall be persons who agree in writing prior to graduation to serve in an eligible county health facility, an eligible state-operated health facility, a health workforce shortage area, or a California nursing school, as designated by the director of the office. Persons agreeing to serve in eligible county health facilities, eligible state-operated health facilities, or health workforce shortage areas, and master’s or doctoral students agreeing to serve in a California nursing school may apply for scholarship or loan repayment. The Registered Nurse Education Program shall be administered in accordance with Article 1 (commencing with Section 128330), except that all funds in the Registered Nurse Education Fund shall be used only for the purpose of promoting the education of registered nurses and related administrative costs. The Health Professions Education Foundation shall make recommendations to the director of the office concerning both of the following:

(1) A standard contractual agreement to be signed by the director and any student who has received an award to work in an eligible county health facility, an eligible state-operated health facility, or in a health workforce shortage area that would require a period of obligated professional service in the areas of California designated by the California Healthcare Workforce Policy Commission as deficient in primary care services. The obligated professional service shall be in direct patient care. The agreement shall include a clause entitling the state to recover the funds awarded plus the maximum allowable interest for failure to begin or complete the service obligation.

(2) Maximum allowable amounts for scholarships, educational loans, and loan repayment programs in order to assure the most effective use of these funds.

(b) Applicants may be persons licensed as registered nurses, graduates of associate degree nursing programs prior to entering a program granting a baccalaureate of science degree in nursing, or students entering an entry-level master's degree program in registered nursing or other registered nurse master's or doctoral degree program approved by the Board of Registered Nursing. Priority shall be given to applicants who hold associate degrees in nursing.

(c) Registered nurses and students shall commit to teaching nursing in a California nursing school for five years in order to receive a scholarship or loan repayment for a master's or doctoral degree program.

(d) Not more than 5 percent of the funds available under the Registered Nurse Education Program shall be available for a pilot project designed to test whether it is possible to encourage articulation from associate degree nursing programs to baccalaureate of science degree nursing programs. Persons who otherwise meet the standards of subdivision (a) shall be eligible for educational loans when they are enrolled in associate degree nursing programs. If these persons complete a baccalaureate of science degree nursing program in California within five years of obtaining an associate degree in nursing and meet the standards of this article, these loans shall be completely forgiven.

(e) As used in this section, "eligible county health facility" means a county health facility that has been determined by the office to have a nursing vacancy rate greater than noncounty health facilities located in the same health facility planning area.

(f) As used in this section, "eligible state-operated health facility" means a state-operated health facility that has been determined by the office to have a nursing vacancy rate greater than noncounty health facilities located in the same health facility planning area.

SEC. 10. Section 128485 of the Health and Safety Code is amended to read:

128485. There is hereby created the Vocational Nurse Education Program within the Health Professions Education Foundation. Persons participating in this program shall be persons who agree in writing prior to completion of vocational nursing school to serve in an eligible county health facility, an eligible state-operated health facility, or a health workforce shortage area, as designated by the director of the office. Persons agreeing to serve in eligible county health facilities, eligible state-operated health facilities, or health workforce shortage areas may apply for scholarship or loan repayment. The Vocational Nurse Education Program shall be administered in accordance with Article 1 (commencing with Section 128330), except that all funds in the Vocational Nurse Education Fund shall be used only for the purpose of promoting the education of vocational nurses and related administrative costs. The Health Professions Education Foundation shall make recommendations to the director of the office concerning both of the following:

(a) A standard contractual agreement to be signed by the director and any student who has received an award to work in an eligible county

health facility, an eligible state-operated health facility, or in a health workforce shortage area that would require a period of obligated professional service in the areas of California designated by the Health Workforce Policy Commission as deficient in primary care services. The obligated professional service shall be in direct patient care. The agreement shall include a clause entitling the state to recover the funds awarded plus the maximum allowable interest for failure to begin or complete the service obligation.

(b) Maximum allowable amounts for scholarships, educational loans, and loan repayment programs in order to assure the most effective use of these funds.

(c) A person who qualifies for admission to a vocational nursing program that is accredited by the board of Vocational Nursing and Psychiatric Technicians may apply for funding under the Vocational Nurse Education Program by establishing a contractual agreement in accordance with subdivision (a).

(d) A person who holds a current valid license as a vocational nurse who wishes to seek an associate of science degree in nursing from an accredited college may apply for funding under the Vocational Nurse Education Program by establishing a contractual agreement in accordance with subdivision (a) unless the person is able to qualify under subdivision (a) of Section 128385 under the Registered Nurse Education Program.

SEC. 11. Section 128730 of the Health and Safety Code is amended to read:

128730. (a) Effective January 1, 1986, the office shall be the single state agency designated to collect the following health facility or clinic data for use by all state agencies:

(1) That data required by the office pursuant to Section 127285.

(2) That data required in the Medi-Cal cost reports pursuant to Section 14170 of the Welfare and Institutions Code.

(3) Those data items formerly required by the California Health Facilities Commission that are listed in Sections 128735 and 128740. Information collected pursuant to subdivision (g) of Section 128735 and Sections 128736 and 128737 shall be made available to the State Department of Health Services. The department shall ensure that the patient's rights to confidentiality shall not be violated in any manner. The department shall comply with all applicable policies and requirements involving review and oversight by the State Committee for the Protection of Human Subjects.

(b) The office shall consolidate any and all of the reports listed under this section or Sections 128735 and 128740, to the extent feasible, to minimize the reporting burdens on hospitals. Provided, however, that the office shall neither add nor delete data items from the Hospital Discharge Abstract Data Record or the quarterly reports without prior authorizing legislation, unless specifically required by federal law or regulation or judicial decision.

SEC. 12. Section 128737 of the Health and Safety Code is amended to read:

128737. (a) Each general acute care hospital and freestanding ambulatory surgery clinic shall file an Ambulatory Surgery Data Record for each patient encounter during which at least one ambulatory surgery procedure is performed. The Ambulatory Surgery Data Record shall include all of the following:

- (1) Date of birth.
 - (2) Sex.
 - (3) Race.
 - (4) Ethnicity.
 - (5) Principal language spoken.
 - (6) ZIP Code.
 - (7) Patient social security number, if it is contained in the patient's medical record.
 - (8) Service date.
 - (9) Principal diagnosis.
 - (10) Other diagnoses.
 - (11) Principal procedure.
 - (12) Other procedures.
 - (13) Principal external cause of injury, if known.
 - (14) Other external cause of injury, if known.
 - (15) Disposition of patient.
 - (16) Expected source of payment.
 - (17) Elements added pursuant to Section 128738.
- (b) It is the expressed intent of the Legislature that the patient's rights of confidentiality shall not be violated in any manner. Patient social security numbers and any other data elements that the office believes could be used to determine the identity of an individual patient shall be exempt from the disclosure requirements of the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code).
- (c) No person reporting data pursuant to this section shall be liable for damages in any action based on the use or misuse of patient-identifiable data that has been mailed or otherwise transmitted to the office pursuant to the requirements of subdivision (a).
- (d) Data reporting requirements established by the office shall be consistent with national standards as applicable.
- (e) This section shall become operative on January 1, 2004.

SEC. 13. Section 128765 of the Health and Safety Code is amended to read:

128765. (a) The office, with the advice of the commission, shall maintain a file of all the reports filed under this chapter at its Sacramento office. Subject to any rules the office, with the advice of the commission, may prescribe, these reports shall be produced and made available for inspection upon the demand of any person, and shall also be posted on its Web site, with the exception of discharge and encounter data that shall be

available for public inspection unless the office determines, pursuant to applicable law, that an individual patient's rights of confidentiality would be violated.

(b) The reports published pursuant to Section 128745 shall include an executive summary, written in plain English to the maximum extent practicable, that shall include, but not be limited to, a discussion of findings, conclusions, and trends concerning the overall quality of medical outcomes, including a comparison to reports from prior years, for the procedure or condition studied by the report. The office shall disseminate the reports as widely as practical to interested parties, including, but not limited to, hospitals, providers, the media, purchasers of health care, consumer or patient advocacy groups, and individual consumers. The reports shall be posted on the office's Internet Web site.

(c) Copies certified by the office as being true and correct copies of reports properly filed with the office pursuant to this chapter, together with summaries, compilations, or supplementary reports prepared by the office, shall be introduced as evidence, where relevant, at any hearing, investigation, or other proceeding held, made, or taken by any state, county, or local governmental agency, board, or commission that participates as a purchaser of health facility services pursuant to the provisions of a publicly financed state or federal health care program. Each of these state, county, or local governmental agencies, boards, and commissions shall weigh and consider the reports made available to it pursuant to the provisions of this subdivision in its formulation and implementation of policies, regulations, or procedures regarding reimbursement methods and rates in the administration of these publicly financed programs.

(d) The office, with the advice of the commission, shall compile and publish summaries of individual facility and aggregate data that do not contain patient-specific information for the purpose of public disclosure. The summaries shall be posted on the office's Internet Web site. The commission shall approve the policies and procedures relative to the manner of data disclosure to the public. The office, with the advice of the commission, may initiate and conduct studies as it determines will advance the purposes of this chapter.

(e) In order to assure that accurate and timely data are available to the public in useful formats, the office shall establish a public liaison function. The public liaison shall provide technical assistance to the general public on the uses and applications of individual and aggregate health facility data and shall provide the director and the commission with an annual report on changes that can be made to improve the public's access to data.

SEC. 14. Section 128770 of the Health and Safety Code is amended to read:

128770. (a) Any health facility or freestanding ambulatory surgery clinic that does not file any report as required by this chapter with the office is liable for a civil penalty of one hundred dollars (\$100) a day for each day the filing of any report is delayed. No penalty shall be imposed if

an extension is granted in accordance with the guidelines and procedures established by the office, with the advice of the commission.

(b) Any health facility that does not use an approved system of accounting pursuant to the provisions of this chapter for purposes of submitting financial and statistical reports as required by this chapter shall be liable for a civil penalty of not more than five thousand dollars (\$5,000).

(c) Civil penalties are to be assessed and recovered in a civil action brought in the name of the people of the State of California by the office. Assessment of a civil penalty may, at the request of any health facility or freestanding ambulatory surgery clinic, be reviewed on appeal, and the penalty may be reduced or waived for good cause.

(d) Any money that is received by the office pursuant to this section shall be paid into the General Fund.

SEC. 15. Section 128775 of the Health and Safety Code is amended to read:

128775. (a) Any health facility or freestanding ambulatory surgery clinic affected by any determination made under this part by the office may petition the office for review of the decision. This petition shall be filed with the office within 15 business days, or within a greater time as the office, with the advice of the commission, may allow, and shall specifically describe the matters which are disputed by the petitioner.

(b) A hearing shall be commenced within 60 calendar days of the date on which the petition was filed. The hearing shall be held before an employee of the office, an administrative law judge employed by the Office of Administrative Hearings, or a committee of the commission chosen by the chairperson for this purpose. If held before an employee of the office or a committee of the commission, the hearing shall be held in accordance with any procedures as the office, with the advice of the commission, shall prescribe. If held before an administrative law judge employed by the Office of Administrative Hearings, the hearing shall be held in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code. The employee, administrative law judge, or committee shall prepare a recommended decision including findings of fact and conclusions of law and present it to the office for its adoption. The decision of the office shall be in writing and shall be final. The decision of the office shall be made within 60 calendar days after the conclusion of the hearing and shall be effective upon filing and service upon the petitioner.

(c) Judicial review of any final action, determination, or decision may be had by any party to the proceedings as provided in Section 1094.5 of the Code of Civil Procedure. The decision of the office shall be upheld against a claim that its findings are not supported by the evidence unless the court determines that the findings are not supported by substantial evidence.

(d) The employee of the office, the administrative law judge employed by the Office of Administrative Hearings, the Office of Administrative

Hearings, or the committee of the commission may issue subpoenas and subpoenas duces tecum in a manner and subject to the conditions established by Article 11 (commencing with Section 11450.10) of Chapter 4.5 of Part 1 of Division 3 of Title 2 of the Government Code.

(e) This section shall become operative on July 1, 1997.